

Message Text

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INFO OCT-01 AF-10 IO-14 ISO-00 CIAE-00 DODE-00 PM-07 H-03

INR-11 L-03 NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03

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SAJ-01 DRC-01 /146 W

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FM AMEMBASSY LISBON

TO SECSTATE WASHDC 0396

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY HELSINKI

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USUN FOR AMBASSADOR SCOTT

E.O. 11652: N/A

TAGS: ELAB, PINT, PO

SUBJ: STRIKE LAW PROMULGATED

SUMMARY: LONG-AWAITED LAW ON STRIKES HAS BEEN PROMULGATED. RECOGNIZING RIGHTS OF BOTH EMPLOYEES AND EMPLOYERS, LAW'S EMPHASIS IS ON RESPONSIBILITY OF PARTIES TO LABOR DISPUTE TO CARRY OUT RESPECTIVE ROLES IN ORDERLY, DISCIPLINED, APOLITICAL FASHION. GOP TO MAINTAIN INSTITUTIONALIZED, CLOSE WATCH OVER LABOR DISPUTES AND WILL INTERVENE DIRECTLY WHEN PARTIES CANNOT RESOLVE OUTSTANDING ISSUES ON THEIR OWN. PROSPECTS: NEW LAW SHOULD GO LONG WAY TOWARD ELIMINATING PLAGUE OF STRIKES AFFLICTING COUNTRY SINCE APRIL 25, BUT WILL NEED TO BE REINFORCED BY COMPANION LEGISLATION ON UNIONS, COLLECTIVE BARGAINING, AND RESPONSIBILITIES OF EMPLOYERS. END SUMMARY

1. AFTER TWO MONTH DELAY BEYOND ORIGINAL "DEADLINE" SET FOR PROMULGATION, GOP HAS ISSUED FIRST IN SERIES OF DECREE-LAWS VITALLY AFFECTING LABOR SECTOR. NEW LAW GOVERNING WORKERS' RIGHT TO STRIKE AND EMPLOYERS' RIGHT TO USE LOCKOUT WAS PROMULGATED ON AUGUST 28, SUBSEQUENT TO APPROVAL OF TEXT BY COUNCIL STATE.

2. WHILE STRIKE WEAPON IS NOW LEGALLY RECOGNIZED RIGHT OF PORTUGUESE WORKERS FOR FIRST TIME IN OVER 40 YEARS, ITS USE IS CAREFULLY CIRCUMSCRIBED PROCEDURALLY, BANNED UNDER CERTAIN CONDITIONS AND PROHIBITED ENTIRELY IN SPECIFIED VITAL SECTORS. GROUP LIMITATIONS INCLUDE FOLLOWING:

- A. MILITARY, PARAMILITARY, POLICE AND FIRE-FIGHTING FORCES, PRISON GUARDS AND JUDICIAL AUTHORITIES MAY NOT STRIKE.
- B. EMPLOYEES OF NATIONAL AND LOCAL GOVERNMENTAL UNITS AND CERTAIN OTHER PUBLIC EMPLOYEES WILL ENJOY RIGHT TO STRIKE, BUT ONLY IN ACCORDANCE WITH TERMS OF A SEPARATE LAW YET TO BE ENACTED.
- C. WORKERS EMPLOYED IN "ENTERPRISES OF PUBLIC UTILITY" (NATIONAL DEFENSE, BANKING, COMMUNICATIONS AND PUBLIC TRANSPORT, HEALTH CARE, FUNERARY, GARBAGE COLLECTION, DISTRIBUTION OF WATER, MILK AND ENERGY) ARE REQUIRED TO ASSURE CONTINUING SERVICE TO PUBLIC DURING COURSE OF STRIKE AND ARE REQUIRED TO PROVIDE LONGER PERIOD OF FOREWARNING THAN WORKERS IN OTHER SECTORS BEFORE RESORTING TO STRIKE (10 INSTEAD OF 7 WORKING DAYS).

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3. FOLLOWING TYPES OF STRIKES ARE IMPERMISSIBLE:

- A. THOSE CALLED FOR POLITICAL OR RELIGIOUS REASONS.
- B. "SOLIDARITY" STRIKES BY WORKERS HAVING NO DIRECT PROFESSIONAL INTEREST IN STRIKE BEING CARRIED OUT IN A SEPARATE SECTOR (UNLESS SUCH WORKERS ARE EMPLOYED IN DIFFERENT BRANCHES OF SAME ENTERPRISE).
- C. THOSE CALLED IN ATTEMPT TO SEEK MODIFICATIONS IN ALREADY-

EXISTING CONTRACT OR COLLECTIVE AGREEMENTS (EXCEPT FOR THOSE ENTERED INTO BEFORE APRIL 25 REVOLUTION).

D. PARTIAL WORK STOPPAGES, WHEN SUCH STOPPAGES OCCUR IN A FIRM'S "STRATEGIC" SECTORS AND ARE AIMED AT DISRUPTING OUTPUT.

E. THOSE CALLED DESPITE SUBSTANTIAL ACCEPTANCE BY MANAGEMENT OF WORKERS' DEMANDS.

4. PROCEDURAL LIMITATIONS INCLUDE:

A. OBLIGATORY 30-DAY COOLING OFF PERIOD, IN WHICH NEGOTIATIONS, CONCILIATION OR MEDIATION SUPPOSED TO OCCUR.

B. OBLIGATORY 7-WORKING DAYS' ADVANCE NOTICE OF INTENT TO CALL STRIKE, NOTICE WHICH MUST BE GIVEN BOTH TO EMPLOYING FIRM AND TO LABOR MINISTRY.

C. STRIKE NOTICE MUST BE ACCOMPANIED BY FORMAL STATEMENT AS TO STRIKES'S CAUSES AND OBJECTIVES, AND ALSO MUST NAME REPRESENTATIVES SELECTED BY WORKERS TO NEGOTIATE SETTLEMENT.

D. STRIKES MAY BE AUTHORIZED ONLY BY WORKERS' UNION OR, IF UNION DOES NOT EXIST IN AFFECTED SECTOR, BY SPECIALLY CONVENED WORKER ASSEMBLY. ASSEMBLY MAY CALL STRIKE ITSELF IF, IN SECRET BALLOT, MORE THAN 50 PERCENT OF WORKERS EMPLOYED BY AFFECTED FIRM SUPPORT STRIKE CALL (I.E., UNLESS 100 PERCENT OF WORKERS ATTEND ASSEMBLY MEETING, A MAJORITY OF MORE THAN 50 PERCENT OF THOSE ATTENDING WILL BE REQUIRED); OR ASSEMBLY MAY DELEGATE THIS AUTHORITY TO LEGALLY RECOGNIZED "INTERSINDICAL" GROUP.

5. MANAGEMENT'S RESORT TO LOCKOUT IS SIMILARLY RECOGNIZED, WHILE ACTUAL USE IS LIMITED TO SPECIFIED CIRCUMSTANCES:

A. IT MAY NOT BE USED FOR FORCE WORKERS TO ACCEPT EMPLOYER'S CONDITIONS FOR WORK; IT MAY NEVER BE USED BY MANAGEMENT OF "ENTERPRISES OF PUBLIC UTILITY."

B. IT MAY BE USED IF WORKERS (ILLEGALLY) OCCUPY PREMISES OR ENGAGE IN SABOTAGE OR DESTRUCTION OF PLANT EQUIPMENT: LOCKOUT MUST END WHEN PLANT'S SECURITY IS REESTABLISHED.

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C. IT MAY BE USED IF WORKERS DO NOT LIVE UP TO OTHER RESPONSIBILITIES IMPOSED UPON THEM BY THE LAW; UNDER THESE CIRCUMSTANCES, 7-WORKING DAYS' WARNING MUST BE PROVIDED TO BOTH UNIONS AND LABOR MINISTRY.

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6. FORTHCOMING LEGISLATION ON COLLECTIVE BARGAINING PRESUMABLY
WILL ASSURE THAT GOP'S INTEREST IN ACHIEVING RAPID SETTLEMENT OF
LABOR DISPUTES IS GUARANTEED. IN INTERIM, STRIKE LAW REQUIRES
ESTABLISHMENT OF AD HOC COMMISSIONS IN STRIKE-THREATENED FIRMS
TO BE COMPOSED OF TWO REPRESENTATIVES OF MANAGEMENT, TWO OF

LABOR AND ONE FROM LABOR MINISTRY. (LAW DOES NOT SPECIFY POWERS OF MINISTRY'S REPRESENTATIVE, WHO IS CHARGED FORMALLY ONLY WITH RESPONSIBILITY TO PRESIDE OVER COMMISSION MEETINGS.)

7. COMMENT: STRIKE LAW IS DESIGNED TO MAINTAIN CAREFUL BALANCE BETWEEN PROTECTION OF WORKERS' RIGHT TO STRIKE AND STATE'S INTEREST IN MAINTAINING PUBLIC ORDER AND NATIONAL PRODUCTIVITY. AS BETWEEN THE TWO, IT IS THE STATE'S INTERESTS THAT RECEIVE "MORE EQUAL" TREATMENT. EMPHASIS THROUGHT IS ON ORDERLY PROCEDURE. SPECIFIC ARTICLES ENJOIN BOTH SIDES TO MAINTAIN NEGOTIATIONS THROUGHOUT COURSE OF DISPUTE, WHILE WORKERS ENJOINED NOT TO COMMIT DESTRUCTIVE ACTS AND TO ALLOW MANGEMENT TO PROVIDE FOR PLANT SECURITY DURING COURSE OF STRIKE. RIGHT OF NON-STRIKING WORKERS TO CONTINUE WORKING IS GUARANTEED. PENALTY PROVISIONS RANGING UP TO 200,000 ESCUDOS (DOLS 8,000) CAN BE INVOKED IN CASES OF VIOLENCE OR FAILURE BY PARTIES TO DISPUTES TO MZET LAW'S ESTABLISHED DEADLINES. BY ESTABLISHING ELABORATE PROCEDURE WHICH MUST PRECEDE STRIKE CALL (NEED TO EXPLAIN CAUSES OF STRIKE, STATE STRIKE'S OBJECTIVES, IDENTIFY BODIES AUTHORIZED TO ISSUE STRIKE CALL) GOP APPEARS TO BE AIMING AT TROUBLESOME SPONTANEOUS LABOR DISTURBANCES WHICH HAVE OCCURED SINCE APRIL 25, MAY OF WHICH HAVE BEEN ACTIVELY OPPOSED BY INTERSINDICAL OR FORMAL UNION LEADERSHIP. HOWEVER, WHILE THIS LAW WILL HLEP STABLIZE CURRENTLY TURBULENT LABOR SCENE, IT CANNOT BEGIN TO DO NECESSARY JOB UNLESS ACCOMPANIED SOON BY COMPANION LEGISLATION. LABOR MINISTRY, ALREADY SWAMPED BY UNENDING STREAM OF PETITIONERS FROM BOTH WORKER AND MANAGEMENT SIDES, PROBABLY WILL NOT BE ABLE TO COPE WITH INSTITUTIONALIZED ROLE OF THEIR ULTIMATE LEGAL PREROGATIVES AND RESPONSIBILITIES WILL NOT HELP UNION OR MANAGEMENT LEADERS TO DEAL WITH PENT-UP WORKER DEMANDS IN EXPEDITIOUS MANNER. STRIKE LAW'S POTENTIAL EFFECTIVENESS THEREFORE WILL DEPEND ON EARLY ISSUANCE BY GOP OF COMPANION MEASURES ON UNIONS, COLLECTIVE BARGAINING AND THE RESPONSIBILITIES OF EMPLOYERS.

8. TEXT OF LAW BEING POUCHED TO DEPT.
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